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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,572	02/22/2002	Thomas Hobson Outten	OUT-01	4040

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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,572

Applicant(s)

OUTTEN ET AL.

Examiner

Josiah Cocks

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed 2/23/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-25 is/are allowed.
- 6) ☒ Claim(s) 12, 14-21, 26, and 28-31 is/are rejected.
- 7) ☒ Claim(s) 13 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12, 14-21, 26, and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by *Jones et al.* (US # 5,809,990).

Jones et al. discloses in Figures 1-7 a method and apparatus substantially as described in applicant's claims 12, 14-21, 26, and 28-31 including a mechanically operated valve (115) having gas inlet and outlet ports and positioned on the grill remove from a burner (101), a valve actuator arm (110) having a pivot (112) closely adjacent one end in spaced relation to the valve (see Fig. 1) and extending laterally beneath the burner and being spring biased (see spring loaded plunger 111 or 311) upwardly toward the burner on the other end (see col. 4, lines 14-27). The

Art Unit: 3749

examiner considers that the both spring loaded plungers (111 and 311) are located adjacent to the pivots (112 and 312) (as shown in Figs. 1 and 3). *Jones et al.* also discloses an actuator member (see rod 109 and grate 107) supported by the other end of the valve actuator arm above the burner for receiving a cooking utensil when placed on the burner (see Fig. 1) wherein the actuator arm is pivotally supported adjacent the one end. The rod (109) forms an upright component integral with the actuator arm and extends upwardly through the burner (see Figs. 1 and 3).

The examiner considers that pivot (112) is adjacent the end of the actuator arm (110) contacting the valve and forms an elongated lever member between the cooking utensil and valve. *Jones et al.* further discloses that the actuator has an upright component integral therewith (see rod 109) extending through the burner and an offset end for clearing grill support members and providing central support for the cooking utensil (see Figs. 1 and 3), and the valve is located in closely spaced relation to the pivot and remove from the other end (see Fig. 1 and note that pivot 112 is closer to the valve end than the other end).

In regard to the limitation of the claims that the actuator member comprises a substantially flat surface (claims 1 and 26) and the actuator member is a substantially circular ring (claim 17), these limitations are not considered to define over *Jones et al.* While the actuator member shown in Figs. 1 and 3 appears to have a rounded tip, in Figs. 5-7 the actuator members shown have a substantially flat surface that the examiner also considers to be a substantially circular ring.

Allowable Subject Matter

4. Claims 22-25 are allowed.
5. Claims 13 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3749

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc

March 21, 2004


JOSIAH COCKS
PATENT EXAMINER
ART UNIT 3749